

## § 535.502

### § 535.502 Subject agreements.

Agreements subject to this subpart are divided into two classes, Class A/B and Class C. When used in this subpart:

(a) Class A/B agreement means an agreement that is one or more of the following:

(1) A rate agreement as defined in § 535.104(aa);

(2) A joint service agreement as defined in § 535.104(o);

(3) A pooling agreement as defined in § 535.104(x);

(4) An agreement authorizing discussion or exchange of data on vessel-operating costs as defined in § 535.104(jj); or

(5) An agreement authorizing regulation or discussion of service contracts as defined in § 535.104(cc).

(b) Class C agreement means an agreement that is one or more of the following:

(1) A sailing agreement as defined in § 535.104(bb); or

(2) A space charter agreement as defined in § 535.104(gg).

[61 FR 11575, Mar. 21, 1996, as amended at 64 FR 11240, 11243, Mar. 8, 1999]

### § 535.503 Information form for Class A/B agreements.

(a) The Information Form for Class A/B agreements, with accompanying instructions that are intended to facilitate the completion of the Form, is set forth in appendix A of this part. The instructions should be read in conjunction with the Shipping Act of 1984 and with this part 535.

(b) Modifications to Class A/B agreements that expand the geographic scope of the agreement or modifications to Class C agreements that change the class of the agreement from C to A/B must be accompanied by an Information Form for Class A/B agreements.

[61 FR 11575, Mar. 21, 1996, as amended at 64 FR 11240, 11243, Mar. 8, 1999]

### § 535.504 Information form for Class C agreements.

The Information Form for Class C agreements, with accompanying instructions that are intended to facilitate the completion of the Form, is set forth in appendix B of this part. The explanation and instructions should be

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read in conjunction with the Shipping Act of 1984 and 46 CFR part 535.

### § 535.505 Application for waiver.

(a) Upon a showing of good cause, the Commission may waive any part of the information form requirements of § 535.503 or § 535.504.

(b) A request for such a waiver must be approved in advance of the filing of the information form to which the requested waiver would apply. The Commission will take into account the presence or absence of shipper complaints in considering an application for a waiver. Requests for a waiver shall state:

(1) The specific requirements from which relief is sought;

(2) The special circumstances requiring the requested relief; and

(3) Why granting the requested waiver will not substantially impair effective regulation of the agreement, either during pre-implementation review or during post-implementation monitoring.

## Subpart F—Action on Agreements

### § 535.601 Preliminary review—rejection of agreements.

(a) The Commission shall make a preliminary review of each filed agreement to determine whether the agreement is in compliance with the filing requirements of the Act and this part and, where applicable, whether the accompanying Information Form is complete or, where not complete, whether the deficiency is adequately explained or is excused by a waiver granted by the Commission under § 535.505.

(b)(1) The Commission shall reject any agreement that otherwise fails to comply with the filing and Information Form requirements of the Act and this part. The Commission shall notify in writing the person filing the agreement of the reason for rejection of the agreement. The entire filing, including the agreement, the Information Form and any other information or documents submitted, shall be returned to the filing party.

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(2) Should the agreement be refiled, the full waiting period must be observed.

[49 FR 45351, Nov. 15, 1984, as amended at 61 FR 11576, Mar. 21, 1996]

### § 535.602 Federal Register notice.

(a) With the exception of marine terminal facilities agreements, as defined in § 535.311(a), a notice of any filed agreement which is not rejected pursuant to § 535.601 will be transmitted to the FEDERAL REGISTER within seven days of the date of filing.

(b) The notice will include:

(1) A short title for the agreement;

(2) The identity of the parties to the agreement and the filing party;

(3) The Federal Maritime Commission agreement number;

(4) A concise summary of the agreement's contents;

(5) A statement that the agreement is available for inspection at the Commission's offices; and

(6) The final date for filing comments regarding the agreement.

[49 FR 45351, Nov. 15, 1984, as amended at 58 FR 5631, Jan. 22, 1993]

### § 535.603 Comment.

(a) Persons may file with the Secretary written comments regarding a filed agreement. Such comments will be submitted in an original and ten (10) copies and are not subject to any limitations except the time limits provided in the FEDERAL REGISTER notice. Late-filed comments will be received only by leave of the Commission and only upon a showing of good cause. If requested, comments and any accompanying material shall be accorded confidential treatment to the fullest extent permitted by law. Such requests must include a statement of legal basis for confidential treatment including the citation of appropriate statutory authority. Where a determination is made to disclose all or a portion of a comment, notwithstanding a request for confidentiality, the party requesting confidentiality will be notified prior to disclosure.

(b) The filing of a comment does not entitle a person to: (1) reply to the comment by the Commission; (2) the institution of any Commission or court

proceeding; (3) discussion of the comment in any Commission or court proceeding concerning the filed agreement; or (4) participation in any proceeding which may be instituted.

[49 FR 45351, Nov. 15, 1984, as amended at 57 FR 40619, Sept. 4, 1992]

### § 535.604 Waiting period.

(a) The waiting period before an agreement becomes effective shall commence on the date that an agreement is filed with the Commission.

(b) Unless suspended by a request for additional information or extended by court order, the waiting period terminates and an agreement becomes effective on the latter of the 45th day after the filing of the agreement with the Commission or on the 30th day after publication of notice of the filing in the FEDERAL REGISTER.

(c) The waiting period is suspended on the date when the Commission, either orally or in writing, requests additional information or documentary materials pursuant to section 6(d) of the Act. The waiting period resumes on the date of receipt of the additional material or of a statement of the reasons for noncompliance, and the agreement becomes effective in 45 days unless the waiting period is further extended by court order.

### § 535.605 Requests for expedited approval.

(a) Upon written request of the filing party, the Commission may shorten the review period. Accompanying the request, the filing party should provide a full explanation, with reference to specific facts and circumstances, of the necessity for a shortened waiting period. If the Commission decides to approve an abbreviated waiting period, the term will be decided after consideration of the parties' needs and the Commission's ability to perform its review functions under a reduced time schedule. In no event, however, may the period be shortened to less than fourteen days after the publication of the notice of the filing of the agreement in the FEDERAL REGISTER. When a request for expedited approval is denied by the Commission, the normal waiting period specified in § 535.604 will apply. Such expedition will not be